

**Meeting Minutes for Fast Track Workgroup
July 24, 2003, 1:30 PM to 3:30 PM
IGCN, Conference Room D**

Attendance:

Bill Beranek (IEI), Neil Parke (Eli Lilly), Bowden Quinn (WPCB), and Tim States (IEI Intern).

Art Umble (Elkhart WWTP) via conference call.

IDEM representatives: Mary Ellen Gray, John Elliott, David Kallander, Lonnie Brumfield, and MaryAnn Stevens

Purpose of Workgroup

The purpose of this workgroup is to review the list of expedited rulemaking issues that the Triennial stakeholder workgroup identified and come to closure on the process for an expedited rulemaking. This list was identified by the Triennial stakeholder group to include changes based on best science, updates of existing rule language, and technical corrections and clarifications that have a reasonable potential of minimal controversy.

Minutes

The minutes of the June 24, 2003 workgroup meeting were accepted by the workgroup members and will be placed on the fast track web site.

First Notice

The first notice was published in the Indiana Register on June 1, 2003, and the comment period continues until July 30, 2003. The comment letters received will be viewable after the end of the comment period. To date, one (1) comment letter has been received.

Timeline

The draft timeline for the fast track rulemaking that was originally distributed in April 2003 was reviewed at this workgroup meeting. There has been a month of slippage due to having provided a sixty (60) day first notice comment period rather than a thirty (30) day comment period as anticipated in the draft timeline. Subsequent dates should all be moved back by a month. The draft timeline also was premised on there being no fiscal analysis required and no third comment period. Both of these premises are doubtful. The recently concluded legislative session produced new rulemaking requirements for developing fiscal analyses at every stage of rulemaking starting with first notice.

Workgroup Discussion

This workgroup meeting reviewed the rule language changes to the draft mock up agreed upon at the previous workgroup meeting and continued consideration of the draft language to the end of the document. John Elliott is still working on portions of the draft rule mock up long version, and the next version of the draft mock up will contain the agreed upon language changes to date and the portions not yet included in the mock up short version. John referred everyone to the companion document, "Status of Changes",

that discusses the state of readiness for inclusion in the draft rule of issues originally included in the first notice.

Specific discussion on the draft rule mock up

1. At the conclusion of these minutes is a list of the rule language specific changes agreed upon by the July 24th workgroup.
2. The Triennial Review Steering Committee meeting of June 25, 2003, asked for a list of issues that would become part of a future rulemaking (a fast track number 2). This list would include issues left out of the first notice because the workgroup thought they could not move through rulemaking quickly. Neil Parke and Bill Beranek want to hold off making such a list until after submitting a draft rule for second notice publication.
3. The issue of including TDS and sulfates in the fast track second notice was discussed. Both these parameters were discussed during the development of the first notice, and the workgroup decided at that time that neither was ready to be part of fast track rulemaking. Neil Parke is interested in the point of application of the standard for these two parameters rather than changing the standard. He believes this change is an appropriate fast track issue to make the area of the state outside the Great Lakes region become consistent with the rules regarding the Great Lakes. This change was included in the 1999 draft Triennial Review rulemaking but did not become effective since that rulemaking was withdrawn. Neil believes the TDS and sulfates standards should apply only at drinking water and industrial water intakes. Dave Kallander stated that sulfates are toxic to aquatic life and should be further considered before changing the rules regulating sulfates and is therefore not a fast track issue. Mary Ellen Gray suggested stakeholders provide rule language they would want to see in the rules. Bowden Quinn thought TDS could be part of this fast track rulemaking but since the sulfate issue needs further study, it would need to wait for the next rulemaking and made this recommendation to the group. The workgroup concurred with Bowden's recommendation.
4. Art Umble raised a question about the difference between an alternative mixing zone and a discharge induced mixing zone. The terms are the same in an acute mixing zone, but, in the non-GLI part of the state, there is no such similar provision so the discharge induced mixing zone is used.
5. Neil Parke noted that 327 IAC 5-2-11.6(h)(7)(A)(iii) would require monitoring of the influent for pollutants such as chlorine that are added as part of the treatment process and wondered if an exclusion could be developed for such pollutants. John Elliott reminded all that the language of 327 IAC 5-2-11.6(h)(7)(A)(iii) comes from the Memorandum of Agreement signed with EPA.
6. In 327 IAC 5-2-13(d) concerning monitoring, John Elliott requested that the regulated community provide its rationale for wanting subdivision (3) deleted. A question also was raised regarding the meaning of "standards and guidelines" found in 327 IAC 5-2-13(d)(3).

Follow up issues

- Put the workgroup minutes of the April 17, 2003 meeting on the Fast Track web site.

Future Meeting Dates

The next meeting is scheduled on August 28, 2003, from 1:30 to 3:30 P.M in Conference Room D of Indiana Government Center North.

Next Meeting issues

- Consider the draft rule language including those parts not included in the mock up shortened version at the June 24th meeting.

Specific comments on the draft second notice language for the fast track rulemaking per the 7/24/03 meeting of the workgroup group (page numbers refer to the draft mock up short version)

Pg 15, IAC 2-1-12(1) change 2002 to 2003.

Pg 16, IAC 2-1.5-2(63) and (64) include the SEA 431 language.

Pg 17, IAC 2-1.5-8(b)(3) Table 8-1 conversion factors for cadmium need to be double checked to see if it's correct.

Pg 18, IAC 2-1.5-8(b)(4) Table 8-2 and Pg 7, IAC 2-1-6(a)(4) Table 6-3 need to be consistent with rounding and significant digits (GLI – 2 significant digits)

Pg 23 IAC 2-1.5-20(1) and (3) change 2002 to 2003.

Pg 24 IAC 5-2-1.5(1) and (3) change 2002 to 2003.

Pg 27 IAC 5-2-11.1 Add free cyanide methodology. IDEM needs add dissolved metals translators. It's currently in GLI – language needs to be clarified and then added to this section.

Pg 29 IAC 5-2-11.4(b)(3)(A)(i)(BB) Check with USGS on terminology for one (1) day, ten (10) year stream design flow.

Pg 31 IAC 5-2-11.4(b)(4)(B)(ii) Check to see whether ESA is spelled out somewhere.

Pg 32 IAC 5-2-11.4(c)(1)(E) Check to see whether Q_w applies to both acute and chronic.

Pg 33 IAC 5-2-11.4(c)(1)(H) Bill will work through equation regarding Q_z

Pg 35 IAC 5-2-11.6(h)(7)(A)(iii) Look into this and see whether there's opt out language.